

SUPERIOR COURT
OF THE
STATE OF DELAWARE

T. HENLEY GRAVES
RESIDENT JUDGE

SUSSEX COUNTY COURTHOUSE
ONE THE CIRCLE, SUITE 2
GEORGETOWN, DE 19947

June 26, 2007

N440 - State Mail
David S. Yarnall
SBI No.
Sussex Correctional Institution
P. O. Box 500
Georgetown, DE 19947

RE: State of Delaware v. David S. Yarnall
Defendant ID No. 0505008426 (R-1-Amended)

Dear Mr. Yarnall:

On March 13, 2007, you filed your first Motion for Postconviction Relief. A transcript was ordered and was filed with the Court on April 5, 2007. That was the transcript of the violation of probation matters occurring on August 22, 2006. Upon further review, I determined that a transcript was necessary of the actual guilty plea before Judge Stokes occurring on June 21, 2006. That was ordered, and subsequently filed with this Court several weeks later. When it was filed, the Court undertook a review of your postconviction application, and on June 14, 2007, the Court denied your Motion for Postconviction Relief.

On June 19, 2007, you filed an Amended Motion for Postconviction Relief. I will give you the benefit of the doubt as to whether it was mailed before the Court's ruling, and I will consider the claims raised in the amended motion. I will not repeat the Court's position as to the matters ruled upon on June 14, 2007.

All of the additional grounds raised in the amended postconviction relief application pertain to your complaints concerning the manner in which you were arrested by the police. You complain about excessive force being used and being attacked with a taser gun. You also complain about the police going through your pockets at the time of your arrest, about the police report containing lies, and about being coerced into making a statement to the police in violation of your *Miranda* rights.

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All of these things were known to you at the time you chose to enter the guilty plea. These are matters that you had an opportunity to present to the Court and seek either suppression of evidence, or seek to force the State to attempt to prove you guilty beyond a reasonable doubt in a jury trial.

You chose to resolve the charges by way of a guilty plea. Therefore, your amended Motion for Postconviction Relief is procedurally barred for the same grounds as noted in my June 14, 2007 decision. It is procedurally barred because these grounds were not asserted in the proceedings leading to your judgment of conviction, and you have not shown cause for that procedural relief or prejudice (Rule 61(i)3). Basically, the rule is applied to the exact allegations you are making, i.e., things you knew of beforehand, could have complained about, could have had a trial and addressed the issues, but chose to accept a guilty plea; and after accepting the guilty plea and your sentence, you chose not to appeal.

I again remind you that you are incarcerated not as a direct result of the decision to resolve the charges with a guilty plea, but because of your violation of probation occurring two months later, in which you also acknowledged you were guilty.

Defendant's Amended Motion for Postconviction Relief is denied as being procedurally barred.

IT IS SO ORDERED.

Yours very truly,

T. Henley Graves

THG:baj
cc: Prothonotary
Department of Justice
Eric G. Mooney, Esquire